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desertion. He had declined to live elsewhere than with his parents, although his wife's temperament appeared to clash continually with that of her mother-in-law. *Held*, that the decree will not be granted as the desertion was justified. *McCampbell v. McCampbell*, 63 Pittsb. Leg. J. 641 (C. P. Allegheny Co., Pa.).

Under the Pennsylvania statute, a desertion, to be sufficient ground for a divorce, must be wilful, malicious, and without reasonable cause. See *PURDON'S DIG. PA. STAT.* (1905), 1230. Although of various forms, nearly all desertion statutes have been construed to allow a divorce for any desertion unless excused by something which would be a ground for granting a divorce to the deserting spouse. *Detrick's Appeals*, 117 Pa. St. 452, 11 Atl. 882; *Craig v. Craig*, 90 Ark. 40, 117 S. W. 765. See 1 *BISHOP, MARRIAGE, DIVORCE AND SEPARATION*, §§ 1664, 1753. *Contra, Laing v. Laing*, 21 N. J. Eq. 248, 250. Since the husband has the right to determine the locus of the home, the mere election to live with his parents, provided adequate support and a comfortable home are given the wife, can present no ground for divorce. *Rodenbaugh v. Rodenbaugh*, 17 Pa. Co. Ct. R. 477. See 1 *BISHOP, MARRIAGE, DIVORCE AND SEPARATION*, §§ 1713, 1716. Under extreme circumstances, however, to compel the wife to live with her mother-in-law may amount to such cruelty as would be ground for divorce; and, accordingly, in such cases the wife's desertion is justified. *Shinn v. Shinn*, 51 N. J. Eq. 78, 24 Atl. 1022. *Cf. Dailey's Appeal*, 10 Wkly. Notes Cas. 420. However, the mere existence of an unfriendly spirit between the mother-in-law and the wife, as in the principal case, can hardly be called sufficient cruelty to justify the latter in deserting her husband. *Jones v. Jones*, 55 Mo. App. 523; *Loux v. Loux*, 57 N. J. Eq. 561, 41 Atl. 358. *Cf. Mossa v. Mossa*, 123 N. Y. App. Div. 400, 107 N. Y. Supp. 1044. *Contra, Powell v. Powell*, 29 Vt. 148; *Field v. Field*, 79 Misc. (N. Y.) 557, 139 N. Y. Supp. 673.

**EMINENT DOMAIN — DAMAGES — VALUE OF FEE UNDER HIGHWAY.** — The city took by condemnation the fee to water-covered shore land, already subject to a public easement of passage. *Held*, that the owner of the fee may recover substantial damages. *Matter of City of New York (Main Street)*, 216 N. Y. 67.

The owner of the fee of a street possesses valuable property in his right to make any use of the land that will not interfere with the public easement of passage. *Viliski v. Minneapolis*, 40 Minn. 304, 41 N. W. 1050; *Appleton v. New York*, 163 App. Div. 680, 148 N. Y. Supp. 870; *Allen v. Boston*, 159 Mass. 324, 34 N. E. 519; *Dell Rapids Co. v. Dell Rapids*, 11 S. D. 116, 75 N. W. 898. See *NICHOLS, EMINENT DOMAIN*, §§ 70, 71. It must follow that the condemnation of the fee of a street should be attended by the payment of substantial damages. *Buffalo v. Pratt*, 131 N. Y. 293, 30 N. E. 233. See 3 *DILLON, MUNICIPAL CORPORATIONS*, 5 ed., 1805. There can be no valid distinction in principle between the condemnation of the fee of a street and the fee of land under water subject to a right of passage, for here, too, the fee carries with it valuable rights. *Steers v. Brooklyn*, 101 N. Y. 51, 4 N. E. 7. See *NICHOLS, EMINENT DOMAIN*, § 171; *FARNHAM, WATERS AND WATER RIGHTS*, § 113 b.

**EVIDENCE — HEARSAY: IN GENERAL — DECLARATIONS OF WIFE ADMISSIBLE AGAINST HUSBAND AS CO-CONSPIRATOR.** — On an indictment for assault with intent to murder, evidence was given that the defendant and his wife planned to commit murder. The acts and declarations of the wife during conversations with the intended victim just before and at the time of the alleged assault were offered by the prosecution. *Held*, that these are admissible. *Thompson v. State*, 178 S. W. (Tex.) 1192.

At common law husband and wife, standing alone, cannot be conspirators. 1 Hawk. P. C., 8 ed., 448, § 8; *People v. Miller*, 82 Cal. 107, 22 Pac. 934.